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Intellectual Property Causes
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Reston, VA 20191
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Attorney Docket No. P20526

In re application of : Shin YAMADA et al.

Mail Stop Non-fee

Serial No. : 09/770,639

Group Art Unit: 2621

Filed : January 29, 2001

Examiner: V. Bali

For : A METHOD FOR DETECTING A HUMAN FACE AND AN APPARATUS OF THE SAME

RECEIVED

APR 06 2004

Mail Stop Non-Fee
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

Technology Center 2600

Sir:

Transmitted herewith is an election with traverse in the above-captioned application.

___ Small Entity Status of this application under 37 C.F.R. 1.9 and 1.27 has been established by a previously filed statement.

___ A verified statement to establish small entity status under 37 C.F.R. 1.9 and 1.27 is enclosed.

___ A Request for Extension of Time.

X No additional fee is required.

The fee has been calculated as shown below:

Claims After Amendment	No. Claims Previously Paid For	Present Extra	Small Entity		Other Than A Small Entity	
			Rate	Fee	Rate	Fee
Total Claims: 29	29*	0	x 9=	\$	x 18=	\$0.00
Indep. Claims: 7	7**	0	x 43=	\$	x 86=	\$0.00
Multiple Dependent Claims Presented			+145=	\$	+290=	\$0.00
Extension Fees for Month				\$		\$0.00
Total:				\$	Total:	\$0.00

*If less than 20, write 20

**If less than 3, write 3

___ Please charge my Deposit Account No. 19-0089 in the amount of \$_____.

N/A A Check in the amount of \$_____ to cover the filing/extension fee is included.

X The U.S. Patent and Trademark Office is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 19-0089.

X Any additional filing fees required under 37 C.F.R. 1.16.

X Any patent application processing fees under 37 C.F.R. 1.17, including any required extension of time fees in any concurrent or future reply requiring a petition for extension of time for its timely submission (37 CFR 1.136) (a)(3)

William F. Bernstein
Bruce H. Bernstein
Reg. No. 29,027

P20526.A03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Shin YAMADA et al.

Group Art Unit 2621

Appln. No. : 09/770,639

Examiner: V. Bali

Filed : January 29, 2001

For : A METHOD FOR DETECTING A HUMAN FACE AND AN
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RESPONSE TO RESTRICTION REQUIREMENT

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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

APR 06 2004

Technology Center 2600

Sir :

In response to the Official Action of March 3, 2004, in which a one-month shortened statutory period for response was set to expire on April 5, 2004 (April 3, 2004 falling on a Saturday), Applicants hereby elect, with traverse, Group I that includes claims 1-9, 13-18, 23 and 26-29.

In the Official Action, the Examiner required an election of one of two inventions.

The Examiner indicated that the two inventions are:

Group I - Claims 1-9, 13-18, 23 and 26-29, which are drawn to face detection, which is classified in class 382, subclass 118; and

Group II - Claims 10-12, 19-22, 24-25, which are drawn to pattern recognition, which is classified in class 382, subclass 224.

The Examiner further indicated that inventions I and II are related as combination and subcombination.

Applicants respectfully traverse the above Restriction Requirement and submit that it is inappropriate. In this regard, Applicants submit that each and all of the claims currently pending are directed to (i.e., include) at least a detecting method or apparatus for detecting a human face. Moreover, each and all of the claims explicitly recite characteristics of a face that are used in the detecting (e.g., detecting an interval between eyes). Accordingly, Applicants respectfully submit that the inventions recited in the claims are not directed to separate inventions that are distinct as claimed.

Additionally, the search field for the identified groups is coextensive. In this regard, although there may be specific search areas that are required for particular claims that are not required for others, this alone is believed to be inadequate and thus an inappropriate basis for requiring restriction.

Moreover, the Restriction Requirement set forth by the Examiner omits one of the two criteria for a proper Restriction Requirement now established by the U.S. Patent and Trademark Office policy. As set forth in MPEP §803, "an appropriate explanation" must be set forth by the Examiner as to the existence of a "serious burden" if the Restriction Requirement were not required. By virtue of the Examiner's requirement indicating the coextensive classification and since the claims of the two groups are so closely related, it is submitted that there is no serious burden on the Examiner in examining all these claims

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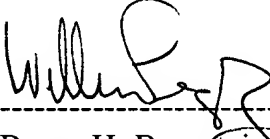
together. Given their relationship, the search for all the claims is believed to likely include a significant amount of overlap.

For all of these reasons, and consistent with the Office Policy as set forth in MPEP §803, Applicants respectfully request that the Examiner reconsider the position taken in the above-mentioned Official Action and withdraw the Restriction Requirement in the present application. Accordingly, the Examiner's Restriction Requirement is believed to be improper and has been traversed for the reasons set forth above.

Nevertheless, in order to be fully responsive, Applicants have elected with traverse the invention of Group I that includes claims 1-9, 13-18, 23 and 26-29 in the event that the Examiner chooses not to reconsider and withdraw the Restriction Requirement.

Should the Examiner have any questions or comments regarding the present response, or the present application, the Examiner is invited to contact the undersigned at the below listed telephone number.

Respectfully submitted,
Shin YAMADA



Bruce H. Bernstein
Reg. No. 29,027

Handwritten text: RN 033630

March 31, 2004
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